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	APPLICATION NO.	FILIN	NG DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
	10/645,653	08/	20/2003	Toby Freyman	10177-169	8819
	20583 JONES DAY	7590 12/12/2007			EXAMINER	
4	222 EAST 41S				WITCZAK, CATHERINE	
	NEW YORK,	NY 10017			ART UNIT	PAPER NUMBER
					3767	
				,		
					MAIL DATE	DELIVERY MODE
					12/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)				
	10/645,653	FREYMAN ET AL.				
Office Action Summary	Examiner	Art Unit				
	Catherine N. Witczak	3767				
The MAILING DATE of this communication app	pears on the cover sheet with the c	correspondence address				
Period for Reply		(O) OD THIRTY (O) DAYO				
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period of the provision of the provision of the provision of the maximum statutory period of the provision of t	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tir will apply and will expire SIX (6) MONTHS from e, cause the application to become AB ANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status		•				
1)⊠ Responsive to communication(s) filed on 13 N	lovember 2007.	•				
•	s action is non-final.					
3) Since this application is in condition for allowa						
closed in accordance with the practice under b	Ex parte Quayle, 1935 C.D. 11, 4	53 O.G. 213.				
Disposition of Claims						
4)⊠ Claim(s) <u>25-40</u> is/are pending in the applicatio	n.					
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)⊠ Claim(s) <u>25-40</u> is/are rejected.		·				
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/o	or election requirement.					
Application Papers						
9) The specification is objected to by the Examine	er.					
10) The drawing(s) filed on is/are: a) acc	epted or b) objected to by the	Examiner.				
Applicant may not request that any objection to the		T .				
Replacement drawing sheet(s) including the correc						
11)☐ The oath or declaration is objected to by the Ex	xaminer. Note the attached Office	Action or form PTO-152.				
Priority under 35 U.S.C. § 119		•				
12) ☐ Acknowledgment is made of a claim for foreign a) ☐ All b) ☐ Some * c) ☐ None of:	n priority under 35 U.S.C. § 119(a)-(d) or (f).				
1. Certified copies of the priority document	1. Certified copies of the priority documents have been received.					
2. Certified copies of the priority document	ts have been received in Applicat	ion No				
3. Copies of the certified copies of the prior	*	ed in this National Stage				
application from the International Burea						
* See the attached detailed Office action for a list	of the certified copies not receive	ea.				
AM-share with N						
Attachment(s) 1) X Notice of References Cited (PTO-892)	4) 🔲 Interview Summary	(PTO-413)				
2) D Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail D	ate				
Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	5) Notice of Informal F 6) Other:	ratent Application				
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Part of Paper No./Mail Date 20071210

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DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/13/2007 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 1. Claims 25-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clark et al (US 5,713,853) as modified by Ding et al (US 6,364,856)

Claims 24, 25, 26, 27, and 40: Clark et al disclose in Figures 24-26 a medical device comprising a shaft (702); an initially cylindrically shaped delivery member (706); a therapeutic agent delivery lumen (710) connected to a therapeutic agent source; a retention member (704); and a therapeutic agent source being a syringe which is capable of applying negative pressure.

Clark et al disclose the claimed invention except for the delivery member being shaped in a continuous solid cylindrical configuration. Ding et al teach in Figures 2 and 3 that it is known to use a delivery member having a continuous solid cylindrical shape. It would have been obvious to one having

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ordinary skill in the art at the time the invention was made to modify the device of Clark et al with a

continuously solid delivery member, since such a structure would ensure maximum contact with the

treatment area when the delivery member is in its expanded state.

Claims 28 and 29: Clark et al disclose in column 7, line 18-column 8, line 47 the delivery member being

formed of a porous, degradable material.

Claims 30 and 31: Clark et al disclose in Figure 24 the delivery member configured to conform to the

internal contour of the target body lumen when expanded.

Claims 32, 33, 34 and 35: Clark et al disclose in Figure 25 the proximal and distal ends of the delivery

member being tapered end caps.

Claim 36: Clark et al disclose in column 14, line 2-4 the delivery member having a length between 5mm

and 40 mm.

Claims 37, 38 and 39: Clark et al disclose in Figure 25 the shaft having a wire lumen for receiving a

guidewire which extends into the delivery member.

Response to Arguments

Applicant's arguments with respect to claims 25-40 have been considered but are moot in view of

the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should

be directed to Catherine N. Witczak whose telephone number is (571) 272-7179. The examiner can

normally be reached on Monday through Friday, 8-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin

Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be obtained

from either Private PAIR or Public PAIR. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-

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Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR

CANADA) or 571-272-1000.

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KEVIN C. SIRMONS SUPĘRVISORY PATENT EXAMINER

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